

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CRIMINAL MINUTES

Case No. **CR 20-326(A)-JFW**

Dated: February 17, 2023

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PRESENT: HONORABLE JOHN F. WALTER, UNITED STATES DISTRICT JUDGE

Shannon Reilly
Courtroom Deputy

None Present
Court Reporter

Mack Eric Jenkins
Cassie D. Palmer
Susan S. Har
Brian R. Faerstein
Asst. U.S. Attorney
Not Present

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U.S.A. vs (Dfts listed below)

Attorneys for Defendants

2) Raymond She Wah Chan
Not Present

2) Harland W. Braun
Brendan J. Pratt
Not Present

PROCEEDINGS (IN CHAMBERS): ORDER RE: OPENING STATEMENT AND DEMONSTRATIVES

On February 10, 2023, the Court ordered counsel to exchange a list of exhibits and copies of any demonstratives that they intend to use in their PowerPoint displays or otherwise during opening statements, and ordered counsel to file a Joint Statement regarding any objections to those exhibits or demonstratives.

In accordance with the Court's Order, on February 14, 2023, the parties exchanged their respective PowerPoint presentations. During the final status conference on February 15, 2023, defense counsel also provided the Court with a copy of his slides (consisting of 117 slides). On February 15, 2023, the Government advised defense counsel of its objections to Defendant's slides, solicited any defense objections to the Government's slides, and requested defense counsel's written position for the joint statement. According to the Government, on February 16, 2023 at 12:00 p.m. (after the Government had already prepared its written position to Defendant's slides), defense counsel sent via email a subset of his original presentation, which now consisted of 42 slides. Defense counsel, however, failed to provide the Government with his written position

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for the joint statement, and did not provide any objections to the Government's slides. On February 16, 2023, the Government filed the "joint" statement (Docket No. 961), which consisted solely of the Government's objections to Defendant's 42 slides, which were attached as Exhibit B.

Defendant has once again violated the Court's orders by failing to participate in preparation of the Court-ordered joint statement, which has increased the work of the Court and opposing counsel. In absence of Defendant's argument in support of his slides, the Court has no alternative but to preclude him from using any slide objected to by the Government (with some minimal exceptions). For the reasons stated by the Government, Defense counsel may not use the following slides (from his 42-page PowerPoint presentation) in his opening statement: slides 5, 6, 10, 11, 12, 13, 14, 15, 16, 20, 23, 24, 26, 27, 28, 39, 40, 41, 42. Defense counsel may use the remaining slides, and to the extent the Government objected to any portion of those slides, those objections are overruled.

In addition, defense counsel shall **not**, in his opening statement, refer to any of the topics in the withdrawn slides to which the Government has objected in the Joint Statement, including but not limited to the following: (1) the Government's or prosecution's alleged "illegal" tactics; (2) instructions or definitions regarding the law; (3) any reference to "entrapment"; and (4) any reference to the "China Initiative" or Government's alleged racial bias or animus.

Finally, the Court cautions defense counsel that his PowerPoint presentation appears to be more akin to a closing argument than an opening statement. As correctly stated by the Government, an opening statement should reflect what the party expects the evidence will show, and should be limited to a preview of the charges and the evidence to be presented at trial.

IT IS SO ORDERED.